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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/737,371

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Richard J. Hertz

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22045

7590

09/09/2005

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EXAMINER

TUCKER, WESLEY J

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/737,371

Applicant(s)

HERTZ ET AL.

Examiner

Wes Tucker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7-27-05.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 15-19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-19 and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 27<sup>th</sup> 2004 has been entered.

### ***Response to Amendment and Arguments***

2. Applicant's response to the last office action, filed July 7<sup>th</sup> 2005, has been entered and made of record.

3. Applicant has amended claims 1, 15 and 21. Claims 13, 14 and 20 are canceled. Claims 1-12, 15-19 and 21-23 remain pending.

4. Applicant's arguments have been fully considered and entered, but are not completely persuasive for at least the following reasons:

5. Applicant has amended the independent claims to include the limitation of the user-specified criteria for selecting images include a desired source of the digital image in order to distinguish the present invention from the prior art. However Examiner points to the summary of Savitsky's invention (column 1, lines 43-63) where

image metadata stored with the image at time of capture includes camera ID, which is interpreted as an image source. Also in the summary Savitsky discloses that the images may be searched by a user and that the images are searchable by text such as captions or titles or by image features. This is interpreted to include the source or camera ID as suggested by being included in the metadata. It would also be an obvious embodiment of Savitsky's invention to enable the user to search based on a certain HTML page or source of the image. Savitsky allows searching of image data, based on metadata which includes camera ID as well as certain HTML pages both interpreted as sources. Such functions are not novel and the limitation of searching according to a source of the image does not serve to distinguish the present invention from that disclosed by Savitsky.

6. Applicant further amends the independent claims to include the limitation of the so-called standing order so often referred to in the past arguments. This limitation is cited "wherein each set of user-specified criteria with the metadata of digital images available at the image server during a first time period to evaluate and select digital images from the desired source for distribution to the user, the at least one software agent automatically comparing user-specified criteria with the metadata of additional digital images no available during the first time period whenever the additional digital images are made available at the image server." The reference to Mathias was cited to teach the feature of a standing order wherein the operation of searching and retrieving images meeting a certain criteria repeatedly and automatically overtime

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(column 9, lines 41-51). Mathias teaches that in the image classifier, the system can automatically and repeatedly search for images and return images that meet a certain criteria such as cars the user is known to like. In this way the user may be updated continuously each time a new image of interest is found. This inherently happens over a first period and then over another period when new images are available and inherently uses some form of metadata. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the method of Mathias to continually search and update a user when an image of interest is found with the image retrieval system of Savitzky and to do so using metadata such as the desired source of the image (camera ID) or any searchable metadata. Both of these practices are well known in the art as shown here.

7. With regard to Applicant's discussion of the 102 rejection over Mathias, Claims 21-23 are now rejected in view of the combination of Savitsky and Mathias for the same reasons as discussed above.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-8, 10, 15-19 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,571,271 to Savitzky et al. in view of U.S. Patent 6,480,627 to Mathias et al.

With regard to claim 1, Savitzky discloses a system for distributing digital images to a user. Savitzky discloses the system comprising an image capture device (Fig.1, element 116) for creating digital images wherein the digital images include metadata containing information about the digital images (column1, lines 45-51). Here metadata is interpreted as "camera ID, date of capture, and the like."

Savitzky further discloses at least one image server (Fig.1, 100) in communication with the image capture device, the image server receiving and storing digital images transmitted from the image capture device (column 4, lines 1-2).

Savitzky further discloses at least one programmable software agent in communication with the at least one image server (creation of HTML pages, column 2, lines 63-65) the at least one software agent including at least one set of user-specified criteria for selecting image, the at least one set of user-specified criteria including a desired source of the digital images, wherein for each set of user-specified criteria the software agent automatically compares the user specified criteria with the metadata of digital images (column 1, lines 43-63). Savitsky discloses where image metadata stored with the image at time of capture includes camera ID, which is interpreted as an image source. Also in the summary Savitsky discloses that the images may be

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searched by a user and that the images are searchable by text such as captions or titles or by image features. This is interpreted to include the source or camera ID as suggested by being included in the metadata.

Savitsky further discloses automatically evaluating and selecting a subset of digital images (column 1, lines 51-56). Here it is understood that there must be a software agent used to display the images on an HTML page. Savitzky does not disclose the at least one software agent compares user-specified criteria with the metadata of digital images available at the image server during a first time period evaluate and select digital images from a desired source for distribution to the user, the at least one software agent automatically comparing the user-specified criteria with the metadata of additional digital images not available during the first time period whenever the additional digital images are made available at the image server.

The reference to Mathias was cited to teach the feature of a “standing order” wherein the operation of searching and retrieving images meeting a certain criteria repeatedly and automatically overtime (column 9, lines 41-51). Mathias teaches that in the image classifier, the system can automatically and repeatedly search for images and return images that meet a certain criteria such as cars the user is known to like. In this way the user may be updated continuously each time a new image of interest is found. This inherently happens over a first period and then over another period when new images are available and inherently uses some form of metadata. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to use the method of Mathias to continually search and update a user when an image of

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interest is found with the image retrieval system of Savitzky and to do so using metadata such as the desired source of the image (camera ID) and any searchable metadata in order to continually update a user when an image of interest is found in order to continually update a user when an image of interest is found. Both of these practices are well known in the art as shown here.

With regard to claim 2, Savitzky discloses the system wherein the at least one software agent is operable to monitor the at least one image server for digital images (column 1, lines 50-55). Here the image server recognizes new images and creates or modifies HTML pages. The server does this automatically and must require a "software agent."

With regard to claim 3, Savitzky discloses the system wherein the at least one image server is operable to push digital images to the at least one software agent (column 2 lines 60-65). Here the server presents the images as HTML pages with the help of the software agent.

With regard to claim 4, Savitzky discloses the system further including at least one display device for displaying the digital images selected by the at least one software agent (column 1, lines 50-55). Here the images are chosen by a software agent and displayed in the form of HTML pages. The display device would be some form of computer monitor.



With regard to claim 5, Savitzky discloses the system wherein the at least one software agent is associated with the at least one display device (column 2, lines 63-65). Here the HTML pages are associated with the web page displayed on some type of digital screen or monitor.

With regard to claim 6, Savitzky discloses the system further including a central processor in communication with the at least one display device (column 2 lines 60-65). Here it is understood that the central processor will be a computer and the display device will be that computer's monitor.

With regard to claim 7, Savitzky discloses the system wherein the at least one software agent is associated with the central processor (column 2 lines 60-65). It is inherent that a software agent must be associated with a central processor.

With regard to claim 8, Savitzky discloses the system wherein the central processor includes a plurality of programmable software agents corresponding to each of the display devices (column 2 lines 60-65). A number of different programmable software agents must be used to make HTML pages available to be seen on several different display devices.

With regard to claim 10, Savitzky discloses the system wherein the at least one software agent and the at least one image server are in connection via a broadband network (column 4, lines 1-4). Here it is understood that the Internet contains broadband networks. It is inherent that two devices in connection through the Internet would be in connection through a broadband network.

With regard to claim 15, the discussion of claim 1 applies. The method claimed is considered to be included in the system previously discussed.

With regard to claim 16, Savitzky discloses the method further including displaying the digital images selected by the at least one software agent (column 2, lines 61-64). Here clients are requesting certain pictures through a network interface, which must have a software agent to select the images to be displayed.

With regard to claim 17, Savitzky discloses the method further including creating the digital images using the image capture device (column 1, lines 43-45). It is inherent that the image capture device is used to create images.

With regard to claim 18, Savitzky discloses the method further including monitoring the at least one image server for digital images using the at least one software agent (column 2, lines 51-55).

With regard to claim 19, Savitzky discloses the method further including pushing digital images from the at least one image server to the at least one software agent (column 2, lines 61-64).

With regard to claim 21, the discussion of claim 1 applies.

With regard to claim 22, Mathias discloses the programmable software agent according to claim 21, wherein the software agent is operable to monitor the at least one image server for digital images (column 9, lines 47-51).

With regard to claim 23, Mathias discloses the programmable software agent according to claim 21, wherein the at least one image server is operable to push digital images to the software agent (column 9, lines 47-51).

12. Claims 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patent 6,571,271 to Savitzky et al. and U.S. Patent 6,480,627 to Mathias et al. in view of U.S. Patent No. 6,337,712 to Shiota.

With regard to claim 9, Savitzky and Mathias disclose the system according to claim 4. They do not specify the use of the system wherein the at least one display device is connected to a home network. Shiota discloses a device similar to the

claimed invention and also allows for a connection with a general household office (Fig. 3, 11). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a connection with a home network for the reason of using the device to transfer and display images from home.

With regard to claim 11, Savitzky and Mathias disclose the system according to claim 1. Savitzky and Mathias do not allow for a wireless communication link between the image capture device and the image server. Shiota discloses a device very similar to the claimed invention and also allows for a wireless communication link (Fig.3, 5) between the server (Fig.3, 6) and the image capture device (Fig.3, 1). Shiota teaches that a wireless link is useful because "a user of a digital camera can transfer images, via this system while the user is away from home, thereby enabling continual use of the digital camera." See abstract last three lines. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a wireless communication link to facilitate transfer of digital images while the user is away from home.

With regard to claim 12, Savitzky and Mathias disclose the system according to claim 1. Savitzky and Mathias do not allow for communication between the image capture device and image server via a synchronization cradle. Shiota discloses a device very similar to the claimed invention and also allows for a synchronization cradle or docking station (4). The docking station is another way to transfer images from the camera to the server. Using a cradle, image transfer can be done without removing a

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memory card or storage device from the camera. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize a synchronization cradle or docking station as taught by Shiota in the device of Savitzky to transfer images from camera to server quickly and easily.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wes Tucker whose telephone number is 571-272-7427. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on 571-272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Wes Tucker

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**PRIMARY EXAMINER**